

**PETER C. ANDERSON**  
**UNITED STATES TRUSTEE**  
Russell Clementson, Bar No. 143284  
Brian D. Fittipaldi, Bar No. 146864  
Attorneys for the United States Trustee  
**UNITED STATES TRUSTEE**  
1415 State Street, Suite 148  
Santa Barbara, California 93101  
Telephone: (805) 957-4100  
Facsimile: (805) 957-4103  
E-mail: brian.fittipaldi@usdoj.gov

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**NORTHERN DIVISION**

In re:

HVI Cat Canyon, Inc.,

Debtor.

CASE NUMBER: 9:19-bk-11573-MB

CHAPTER 11

OBJECTION OF THE UNITED STATES  
TRUSTEE TO FEE APPLICATIONS

Date: January 30, 2020

Time: 10:00 a.m.

Ctm: 201

TO THE HONORABLE MARTIN BARASH, UNITED STATES BANKRUPTCY JUDGE, THE  
DEBTOR, DEBTORS' COUNSEL, THE CHAPTER 11 TRUSTEE, COUNSEL FOR THE CHAPTER  
11 TRUSTEE AND OTHER PARTIES IN INTEREST:

The United States Trustee (the "U.S. Trustee") has reviewed the Fee Applications filed in the  
above-reference case and respectfully submits the following comments to said filings:

**1. General Comments**

This case was filed in 2019 in the United States Bankruptcy Court for the Southern District of New  
York. Since then, it has been transferred to the Northern District of Texas, and then to the Central District  
of California, Northern Division. The Debtor in Possession has been replaced by a Chapter 11 Trustee.  
Obviously, there has been a need for a myriad of professionals to provide services in this case. There is a

1 concern that there are sufficient monies to pay professionals and pay the Debtor's post-petition obligations  
2 going forward. The U.S. Trustee requests that the Chapter 11 Trustee report to the Court at the hearing on  
3 the current financial status of the Debtor, including what monies will be available to the Debtor after the  
4 proposed payments to professionals.

5 Given that the case is still in its early stages, the United States Trustee believes that none of any  
6 fees granted should be classified as "final," except for the relatively modest fees of Cole Schotz. In  
7 addition, the U.S. Trustee reserves the right to object to any final fees requested pertaining to any interim  
8 fee awards.

9  
10 **2. Chapter 11 Trustee, Michael A. McConnell**

11 The Chapter 11 Trustee is requesting fees based on the hours he worked as trustee, rather  
12 than based on a percentage of disbursements as provided in 11 U.S.C. § 326. As a result, the U.S. Trustee  
13 requests that the Chapter 11 Trustee provide a supplemental pleading that provides a request for fees based  
14 on a percentage of his disbursements.

15  
16 **3. Danning, Gill, Israel & Krasnoff**

17 The UST has no additional comments regarding this Fee Application.

18  
19 **4. CR3 Partners, LLP**

20 The Employment Application and the order providing for the employment of CR3 cited  
21 language employing CR3 as Restructuring/Financial Advisors to the Chapter 11 Trustee. However, this  
22 Fee Application seeks fees as "Chief Restructuring Officer and Financial Advisor to the Chapter 11  
23 Trustee." To be clear, the U.S. Trustee considers the Chapter 11 Trustee as the "Chief Restructuring  
24 Officer." In any event, CR3 and Tim Skillman himself was not employed by the Court as a Chief  
25 Restructuring Officer. As a result, any order should not grant fees to CR3 in that capacity, but merely as  
26 the Restructuring Officer and Financial Advisor to the Chapter 11 Trustee."  
27  
28

1       **5. Weltman & Moskowitz, LLP**

2           Due to the fact that there are no free and clear funds available to pay this professional, and that it is  
3 impossible to ascertain the reasonableness of their fees given the current financial posture of the Debtor,  
4 the U.S. Trustee believes that a hearing on the fees of former counsel to the Debtor should be postponed to  
5 a later date.

6  
7       **6. Pachulski, Stang, Ziehl & Jones, LLP**

8           The UST is concerned regarding the magnitude of the fees requested in the case, and believes any  
9 award of fees should be withheld until funds that are free and clear become available in this case.

10  
11       **7. Cole Shotz PC**

12           Given the fact that this professional is no longer providing services to the Committee, and that the  
13 requested fees are relatively modest, the U.S. Trustee has no objection to this Fee Application.

14  
15       **8. Conway MacKenzie, Inc.**

16           The U.S. Trustee objects to the request for Final Fees for this professional. The request for fees is  
17 over \$107,000.00. The U.S. Trustee believes any award of fees should be withheld until funds that are  
18 free and clear become available in this case.

19  
20       **9. Dore, Rothberg, McKay**

21           The U.S. Trustee does not have an objection to this Fee Application.  
22  
23

24       Dated: January 16, 2020

PETER C. ANDERSON  
UNITED STATES TRUSTEE

25  
26       By: /s/ Brian D. Fittipaldi

27           Brian D. Fittipaldi  
28           Trial Attorney

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 1415 State Street, Santa Barbara, CA 93101

A true and correct copy of the foregoing document entitled: Objection\*\*\* will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On January 16, 2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Brian Fittipaldi: [brian.fittipaldi@usdoj.gov](mailto:brian.fittipaldi@usdoj.gov)

**2. SERVED BY UNITED STATES MAIL:**  
On January 16, 2020, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL**  
(state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on January 16, 2020, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

**U.S. Bankruptcy Court—Northern Division**  
The Honorable Martin R. Barash  
United States Bankruptcy Court  
Central District of California  
21041 Burbank Blvd., Ste. 342  
Woodland Hills, CA 91367

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 16, 2020	Brian D. Fittipaldi	/s/Brian D. Fittipaldi
Date	Printed Name	Signature